



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

DAS
F.# 2008R01701

*271 Cadman Plaza East
Brooklyn, New York 11201*

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BY HAND & ECF

Shayna Bryant
Amanda Donat
United States Probation Officers
United States Probation Department
Eastern District of New York
111 Livingston Street
Brooklyn, New York 11201-4201

Re: United States v. Analdo Samuel
Criminal Docket No. 08-722 (CPS)

Dear USPOS Langon & Donat:

The government has reviewed the Presentence Report ("PSR") for the above-referenced defendant and respectfully requests the following amendments:

Page three lists Kenya Dinkins as "awaiting trial." There are no charges pending against Dinkins.

Paragraph 1 erroneously indicates that Samuel pled guilty before Judge Sifton on July 31, 2007. In fact, Samuel pled guilty before Magistrate Judge Reyes on February 18, 2009. Judge Sifton accepted the guilty plea on March 17, 2009.

Paragraph 10 indicates that the "true owner" of the custody account of Roy Bhairam "was not disclosed" to the Probation Department. This sentence confusingly suggests that someone other than Bhairam owned the account. As noted in earlier sections of the PSR, Bhairam acted as the attorney for Samuel, who posed as the son of Carlos Hernandez. Thus, Samuel controlled all the funds from the transaction, and used Bhairam, who believed that the transaction was legitimate.

Paragraph 11 of the PSR omits mention of the remaining funds from the Exeter mortgage. As noted in the PSR, Exeter Holdings paid \$406,000 for the mortgage on the Douglas Street property, and Samuel arranged for \$245,000 from these proceeds to be wired to Switzerland. In addition, however, Samuel instructed Bhairam to issue checks for the remaining \$160,000 from the proceeds of the loan. Bhairam, acting at Samuel's direction, issued checks in the name of "Mildred Ramos". Samuel recruited Ramos to cash these checks, and Ramos gave the cash from these checks to Samuel. In exchange, Samuel paid Ramos several thousand dollars.

Paragraph 16 of the PSR fails to make clear that Samuel directed the kidnapping from the United States, and, during the kidnapping, Samuel directed Gibbs, Philip, Frances and Fields that they should not release the child until the ransom was paid.

Footnote two on page 7 is erroneous. The British have informed the government that they will not seek extradition of Samuel, because they do not want to force the child to testify again at a second trial. Moreover, the United States cannot prosecute Samuel for his role in the kidnapping, because the statute in effect at the time of the kidnapping did not encompass kidnappings which occurred outside the United States. The current statute, by contrast, is broader and would encompass such conduct, however under the ex post facto clause of the Constitution, Samuel cannot be prosecuted under this statute, because it was enacted in July 2006, after the kidnapping had concluded. See 18 U.S.C. § 1201

Paragraph 19 of the PSR should include the following additional sentence: Samuel recruited an unknown individual to pose as "Syntyche Thompson" at the closing for the sale of the Avenue H residence.

Paragraph 20: The second sentence erroneously states that Analdo Samuel purported to be Syntyche Thompson. In fact, as noted above, an unknown individual who was recruited by Samuel posed as Syntyche Thompson. This paragraph should also be amended to include the fact that the cashiers' checks were made payable to "Miriam Montalvo." Samuel recruited Montalvo to cash these checks, and, acting at Samuel's direction, Samuel's girlfriend, Kenya Dinkins, accompanied Montalvo inside the check casher to cash the checks. Montalvo gave the cash from these checks to Samuel. In exchange, Samuel paid Montalvo several thousand dollars.

Paragraph 21: The last sentence of this paragraph is erroneous, and should be replaced with the following sentence: Samuel was arrested on September 22, 2008. At the time of his arrest, Samuel possessed two false identification documents with his photograph and the name "George Anthony Rogers." A tenant in Samuel's building told the arresting agents that Samuel was the landlord of the building, and that the tenant knew Samuel by the name "George Anthony Rogers." Moreover, Samuel received utility bills in the name "George Anthony Rogers" at his address in the building.

Paragraph 27 should state that Samuel impersonated the grandson of Syntyche Thompson.

Sentencing Recommendation

The government respectfully submits that the sentence for each count of identity theft should run consecutive to each other. While the court has discretion to impose these counts concurrently to each other, the government submits that concurrent sentences here would be inappropriate, as each identity theft count involved a separate transaction and separate victim. Thus, the Guidelines range would be 87-108 months on the fraud counts, plus a total of 48 months on the identity theft counts to run consecutively to the fraud and to each other, resulting in a total operative Guidelines range 135-156 months.

Moreover, the government submits that an above-Guidelines sentence is warranted here, based upon numerous factors: (1) the defendant's participation in the kidnapping, which is not adequately reflected in the defendant's Guidelines calculation; (2) the defendant's criminal history category underrepresents his true criminal history; (3) the defendant's possession of the "George Anthony Rogers" identification, combined with the tenant's identification of the defendant as the landlord, strongly suggests that the defendant has continued to engage in the very same type of mortgage fraud and identity theft for which he was charged in the indictment.

The government respectfully requests that the PSR be amended to reflect this information.

Respectfully Submitted,

BENTON J. CAMPBELL
United States Attorney
Eastern District of New York

By: /s/ Daniel Spector
Daniel Spector
Thomas Sullivan
Assistant U.S. Attorneys
(718)254-6345/7580

cc: Michael Hueston, Esq.
Clerk of Court (CPS)